

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re U.S. Patent No.: 7,704,993 )  
Inventors: Brian Smith et al. )  
Issue Date.: April 27, 2010 )  
For: BENZAZEPINE DERIVATIVES AND )  
METHODS OF PROPHYLAXIS OR )  
TREATMENT OF 5HT2C )  
RECEPTOR ASSOCIATED )  
DISEASES )

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**VIA EFS-WEB**

Sir:

**APPLICATION FOR PATENT TERM ADJUSTMENT-POST GRANT**

In accordance with 37 C.F.R. § 1.705(d), Applicants hereby apply for patent term adjustment under 35 U.S.C. § 154(b) of an additional 2 (two) days. This application is being filed within two months of issuance of the above patent, as required by 37 C.F.R. § 1.705(d).

**I. Statement of the Facts Involved**

**A. Correct Patent Term Adjustment**

The U.S. Patent and Trademark Office (USPTO) issued the subject U.S. Patent No. 7,704,993 ("the '993 patent") on April 27, 2010, with a patent term adjustment (PTA) of 612 days. The application is a national stage application claiming priority to Provisional Application No. 60/479,280 filed on June 17, 2003. The national stage

commencement date for this application is December 17, 2005, 30 months from June 17, 2003 (application date of the Provisional Application).

The USPTO incurred an "A" delay of 431 days for issuing the first notification under 35 U.S.C. 132 - the first Office Action was mailed September 29, 2008.

Applicants incurred a total delay of 153 days resulting from a delay of 63 days for responding to the Office Action of September 29, 2008, and a delay of 90 days for responding to the Final Office Action of May 21, 2009.

The USPTO incurred a "B" delay of 336 days. A Request for Continued Examination (RCE) was filed on November 19, 2009. Applicants calculated the days for this "B" delay starting with the day after the three-year period from the national phase commencement date (December 17, 2005), until the day before the RCE was filed on November 19, 2009.

Thus, patentee is entitled to a total patent term adjustment of **614 days** which is the sum of 431 days resulting from USPTO's "A" delay to issue the first notification under 35 U.S.C. § 132 and 336 days of "B" delay due to exceeding three year pendency accrued at the time the RCE was filed, minus the 153 days of Applicants' delay. None of the 336 days exceeding the three year pendency overlap with any of the USPTO's "A" delay of 431 days.

In sum, the USPTO issued the patent with a PTA of 612 days, but patentee believes that it is entitled to a total PTA of 614 days. Accordingly, patentee applies for a PTA of additional **2 (two)** days.

#### **B. Terminal Disclaimer**

The above-identified application is not subject to a Terminal Disclaimer.

**C. Reasonable Efforts**

There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing of examination of the above-identified application, as set forth in 37 C.F.R. § 1.704, other than those addressed above.


**II. Fee**

As required by 37 C.F.R. § 1.705(b)(1), this application is accompanied by a check for \$200.00 to cover the required fee. Please charge any deficiencies to Deposit Account No. 06-0916. If there are any other fees due in connection with the filing of this request, please charge them to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: June 25, 2010

By:  # 57,292 For  
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